

GSA Directive

ADM 4220.1H Operations in the Absence of Appropriations

Date: 09/27/2013

Status:

Outdated on:

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

ADM 4220.1H
September 27, 2013

GSA ORDER

SUBJECT: Operations in the absence of appropriations

1. Purpose. This order updates the GSA plan for conducting an orderly shutdown in the event of the absence of appropriations.
2. Cancellation. ADM 4220.1G is cancelled.
3. Background.
 - a. The language and legislative history of the Antideficiency Act unambiguously prohibit agency officials from incurring obligations in the absence of appropriations. This is supported by opinions from the United States Attorney General and the Office of Legal Counsel of the Department of Justice (DOJ).
 - b. In the absence of appropriations, Federal officers may not incur any obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law. Federal officers may incur obligations as necessary for orderly termination of an agency's functions, but funds may not be disbursed.
 - c. To ensure compliance with these directives, Office of Management and Budget (OMB) Circular No. A-11, Section 124, "Agency Operations in the Absence of Appropriations", requires all Agency heads to develop and maintain plans for an orderly shutdown in the event of the absence of appropriations.
 - d. The Chief Financial Officer, Office of Budget (BB) is responsible for maintaining and updating this Order, coordinating activities to ensure proper implementation of this policy, and reporting plans and activities to the Administrator and to OMB. BB will work with OMB to resolve funding questions and concerns in the absence of appropriations.
4. Summary of agency activities under a lapse in appropriations.
 - a. GSA was established to provide facilities and services to Federal agencies government-wide to enable them to better focus on their core missions and improve economies and efficiencies by leveraging the buying power of the government (See Title 40, U.S. Code Sec 501 et seq.). GSA is the Federal agency responsible for managing assets of the United States, including acquisition, operation, and disposal of real and personal property, and providing government-wide policy guidance and information to citizens;
 - b. GSA provides workspace to over one million Federal employees through over 1,500 Federal buildings and over 8,000 leases, and maintains a variety of personal property, including over

200,000 Federal motor vehicles. GSA provides over 12 million products and services necessary for other agencies to perform their missions. GSA's role as an aggregator of large numbers of government assets and a supplier of critical tools, equipment, and supplies to other Federal agencies requires that GSA retain adequate staffing under a lapse in appropriations in order to protect Federal property under GSA's custody and control and to continue to provide critical support to other Federal agencies' exempt and excepted activities necessary for the protection of life and Federal property.

- c. In the absence of appropriations, GSA owned and leased buildings will remain open and operate in "weekend mode." Maintenance and janitorial services, telephone service, lighting, and power will continue so that tenant agencies can continue to provide vital services and perform essential missions. The Federal Protective Service will continue to provide building security.
- d. GSA will continue to provide workspace, products, and services ordered before the funding lapse as long as there is a continuing need. GSA will not accept new orders for workspace, products, or services except when they are needed by the ordering agency to support excepted or exempt activities. GSA will not make payments to contractors for products and services not obligated before the funding lapse. USA.gov and GobiernoUSA.gov will remain available during a shutdown but will not be updated, except in an emergency. GSA will not maintain other websites providing government information and services to citizens.
- e. Because GSA is the government's property manager, GSA personnel will be responsible for maintaining, protecting and preserving that property to a greater extent than many other agencies that are not responsible for property and asset management government-wide. Excepted GSA employees will be responsible for protecting life and/or Federal property and providing necessary support to other government agencies to enable them to perform excepted activities.

5. Implementing action. All GSA units will follow procedures in the plan. It goes into effect only when directed by the Administrator.

Dan Tangherlini
Administrator

ATTACHMENT

OPERATIONS IN THE ABSENCE OF APPROPRIATIONS

1. Funds control in the absence of appropriations. If appropriations lapse, the following authorities and directives will govern operations. They reflect laws and regulations enacted by Congress, OMB, the Office of Personnel Management, and other authorities.
 - a. Under the Antideficiency Act, it is a felony to obligate the U.S. Government in advance of appropriations unless this is otherwise authorized by law (31 U.S.C. 1341), except for emergencies involving the safety of human life or the protection of property (31 U.S.C. 1342 and - 1515(b)(1)(B)).
 - b. The Attorney General's opinion "Applicability of the Antideficiency Act Upon a Lapse in an Agency's Appropriations" (1980) held that, under a lapse in appropriations, agencies could not incur any obligation that was not legally funded from prior appropriations or otherwise authorized by law. The opinion also held that authority may be inferred from the Antideficiency Act for Federal officers to incur those minimal obligations necessary for terminating operations.
 - c. The subsequent Attorney General opinion, "Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations" (1981), provided more detail on possible exceptions, including those authorized as emergencies involving the safety of human life or the protection of property. Generally, there must be a reasonable connection between the function and the safety of human life or the protection of property; second, there must be a reasonable likelihood that the safety of human life or protection of property would be compromised by delay in performance of the function.
 - d. Sec. 13213(b) of the Omnibus Budget and Reconciliation Act of 1990, Pub. L. 101-508 (title 13 is also known as the Budget Enforcement Act of 1990), amended 31 U.S.C. 1342.
 - (1) It added a sentence to clarify that "...the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property."
 - (2) As explained in the conference report on the bill, this action was taken to "guard against what the conferees believe might be an overly broad interpretation of an opinion of the Attorney General...regarding the authority for the continuance of Government functions during the temporary lapse of appropriations, and affirm that the constitutional power of the purse resides with Congress."
 - e. In an August 16, 1995, memorandum to the Director of OMB, the DOJ Office of Legal Counsel reaffirmed the validity of previous legal opinions and interpretations and provided two clarifications.
 - (1) In determining excepted functions for the safety of life or the protection of property, there must be some reasonable likelihood that the safety of human life or the protection of property would be compromised "in some significant degree" by delay in the performance of the function.
 - (2) The use of the word "imminent" in the 1990 amendment serves "to emphasize and reinforce the requirement that there be a threat to human life or property of such a nature that immediate action is a necessary response to the situation."

f. Based on the Attorney General's 1980 and 1981 opinions, and reaffirmed by the 1995 DOJ opinion, OMB has cited the following as primary examples of activities authorized to continue during a funding lapse: providing for the national security; providing benefit payments and performing contract obligations under no-year, multi-year, or other funds remaining available for these purposes; and conducting activities that protect life and property. The list includes:

- (1) Providing medical care of inpatients and emergency outpatient care;
- (2) Ensuring continued public health and safety, including safe use of food, drugs, and hazardous materials;
- (3) Continuing air traffic control and other transportation safety functions and protecting transportation property;
- (4) Continuing border and coastal protection and surveillance;
- (5) Protecting Federal lands, buildings, waterways, equipment, and other U.S. property;
- (6) Caring for prisoners and other persons in U.S. custody;
- (7) Pursuing law enforcement and criminal investigations;
- (8) Providing emergency and disaster assistance;
- (9) Preserving the essential elements of the U.S. money and banking system, including Treasury borrowing and tax collection activities;
- (10) Ensuring production of power and maintaining the power distribution system; and
- (11) Protecting research property

g. Within these guidelines, the Administrator may determine which activities are excepted to operate during a lapse in appropriations.

h. Usually, activities and employees supported by permanent or no-year appropriations and revolving funds are excepted if funds are available for obligation in the accounts, and at levels required to accomplish valid customer orders. The Federal Buildings Fund receives most of its current obligational authority in annual appropriations acts, so its activities are more limited during an appropriations lapse than other revolving fund activities.

i. Under GSA's current-year accounts, excepted activities are protecting life and Federal property, performing contract obligations under no-year, multi-year, or other funds remaining available for these purposes, and supporting, providing services to, or otherwise enabling others to perform excepted functions. Reimbursable personnel or services may or may not be affected, depending on the status of the ordering components' funding sources.

j. For non-excepted activities, obligations may be incurred only for suspending normal agency operations. Once appropriations are no longer available, it is illegal for non-excepted employees to do regular work. It also violates the Antideficiency Act to accept voluntary services of employees for non-excepted activities (31 U.S.C. 1342).

k. Although obligations are incurred for excepted activities and for shutting down operations, expenditures cannot be made against lapsed appropriations; new appropriations must be enacted to liquidate the obligations. Obligations incurred against accounts not affected by the lapse may be liquidated, however.

- l. "Excepted" is not the same as "essential". Employees may be essential for conducting regular operations, and may even be required to report to work during hazardous weather conditions, but they are not necessarily excepted when those regular operations cease under a funding lapse. To be designated as excepted, personnel must be performing the specific functions allowed by law and defined in this order.
- m. It is a principle within GSA to minimize the number of executive, management, and supervisory personnel designated as excepted, concentrating instead on employees delivering excepted services to Federal customers. Unless an office is excepted in its entirety, the general policy is that either the Director or the Deputy may be designated as excepted, but not both, unless so specified in par. 3. This applies equally to Services, Staff Offices and Regions.

2. Implementation Plan.

- Number of employees expected to be on-board before implementation of the plan **11,821**
- GSA generally requires **1/2** day(s) to complete a shutdown. The Federal Acquisition Service (FAS) will perform a phased shutdown over a period of 20-25 business days due to its status as an exempt funding source (see, 40 USC Sec. 321).

Note: In the case of a total shutdown, the Acquisition Services Fund (ASF) is not immediately affected by a lapse in appropriations, as its operations are funded through fees collected from customer agencies for goods and services provided. Employees of the FAS who are funded by the ASF will be retained to complete open orders against obligations incurred prior to the funding lapse. FAS may also accept new orders to support exempt and excepted activities during a funding lapse, and anticipates that it may require approximately **20-25 business days** to complete shutdown activities. In the case of a partial shutdown, the procedures in paragraph 3.m. will be applicable to FAS operations.

- Total number of employees to be retained under the plan because (1) they are engaged in military, law enforcement, or direct provision of health care activities **0**, or (2) their compensation is financed by a resource other than annual appropriations **3,166**.
- Number of employees, not otherwise exempt, to be retained to protect life and property **928**.

The following is the general framework for responding to a temporary lapse in appropriations. Although "temporary" is defined as 30 consecutive days or less for adverse employee actions, in this part it means only the relatively short period, often only a few days or less, normally required for Congress to provide funds. If a lapse is extended or an activity is terminated, additional instructions will be issued.

- a. Unless notified otherwise, all employees should report to work on the first business day of a temporary lapse. Once all employees have completed shut down operations, personnel are released from duty, except for those required for excepted functions. Par. 3 of this order identifies excepted functions.

- (1) Heads of Services and Staff Offices must identify the employees who are to perform excepted functions and compile a list of names on an annual basis. The list must be kept current and is sent to the Office of the Chief People Officer (OCPO).
- (2) The number of excepted employees will vary with local conditions. Heads of Services and Staff Offices must determine the minimum number of personnel required to support the excepted function within the limits provided in par. 3.

- b. Released non-excepted employees are placed in non-duty, non-pay status by use of furlough under the adverse action procedures in title 5 of the Code of Federal Regulations (CFR) part 752.
 - (1) All employees will be provided with written notice of their status as excepted or non-excepted employees. If there is no time for written notice, oral notice is acceptable (5 CFR 752.404 (d)(2)), with later written notice to confirm the action. All personnel actions must be documented by the OCPO.
 - (2) If possible, labor unions will be notified before implementing furloughs. The Labor Relations Division (CPL), OCPO, notifies national unions, American Federation of Government Employees and National Federation of Federal Employees, and each region is responsible for notifying regional and local unions under this policy and any collective bargaining agreements. Additional guidance will be provided by the OCPO.
 - (3) Furloughed career Senior Executive Service (SES) employees are entitled to the procedures in 5 CFR part 359, subpart H. The OCPO can explain furlough procedures for career SES, non-Presidential appointees, schedule C, temporary, and non-career SES employees.
- c. Employees who are closing down operations or who perform excepted activities must report for duty as directed. During an appropriations lapse, they are still in a paid status, but are working for delayed pay; they are not rendering gratuitous services and must report to work.
- d. Non-excepted employees will report for duty on the first business day after the lapse in appropriations. They will be provided notice of furlough, additional instructions, and will be released from duty no later than 12 PM that day. Once released, non-excepted employees should monitor the media to determine when the lapse is over, and when they should return to duty.
- e. During a lapse in appropriations, annual or sick leave may not be used by employees in place of furlough.
 - (1) Since 1985, GSA policy and labor agreements have stated that employees may be on paid leave during a furlough when the leave *had* been approved before the furlough began. While this position was based on guidance from the Office of Personnel Management (OPM), that agency has now determined that, in its legal opinion, use of paid leave during a furlough would constitute a violation of the Antideficiency Act and that, in the case of a furlough due to the lapse of appropriations, "leave is automatically cancelled because the necessity to furlough supersedes leave rights."
 - (2) In the case of an appropriations lapse, annual, sick, court, bone marrow, and organ donation leave is cancelled. Military leave will continue to be charged even though furlough days are considered non-work days. Employees serving as witnesses or jurors would be able to retain all moneys received from the court.
 - (3) Cancelled or interrupted annual or sick leave is not forfeited, but can be used later.
- f. Persons on official travel when funds lapse are handled case-by-case.
 - (1) Travelers performing excepted functions, or supported by funds not affected by the lapse, remain on duty.
 - (2) Non-excepted employees are placed on furlough. Although some obligations for travel costs are incurred before a funding lapse, the employees must be recalled to their duty station because there is no authority to incur new per diem obligations. Decisions will be made on a case-by-case basis as determined by the appropriate Heads of Services and Staff Offices to incur obligations necessary for orderly termination of functions.

- g. Goods and services may not be purchased under lapsed appropriations except when required to support excepted activities or when purchased with funds that are exempt from a lapse in appropriations.
- (1) New contracts may not be awarded except in support of excepted activities or when using an exempt funding source. Contract options for additional quantities or to extend the term of the contract may not be exercised unless it is determined that the additional goods or services are needed to continue or support excepted activities or if the options may be exercised without an obligation of funds or if funded by an exempt funding source. Contracting personnel should consult with program and legal personnel before making a final decision not to exercise an option, when this could expose the Government to financial liability or other damages.
 - (2) If a contract is fully obligated before the lapse in appropriations and the goods or services are still required, the contract is in full force and effect and no additional actions are required. However, if the contract is for recurring services, contracting personnel must verify whether the goods and services are needed at the same levels during a shutdown of government operations and may, if applicable, issue a stop work order or termination for convenience (full or partial). Contract terminations must be reviewed by the Office of General Counsel prior to issuance.
- h. Each Service and Staff Office must establish procedures to notify released employees when to return to duty. The recall system will be used when the lapse is over or when other circumstances require changed instructions. Once funding is restored, exempt and excepted managers will use local Continuity of Operations telephone alert rosters to instruct furloughed employees to return to work. Furloughed employees will return to work on their next regular duty day after the lapse is over.
3. Excepted activities. The following defines excepted functions and personnel levels that continue during a lapse in appropriations. Activities not discussed are not excepted within the meaning of the law. If there are organizational changes, these instructions apply to the organizational unit that has been newly assigned the functions.
- a. Office of the Administrator/Regional Administrators (A). Excepted Central Office personnel are the Administrator, the Deputy Administrator, the Chief of Staff, and three additional employees. Other personnel may be recalled on a limited basis, if deemed necessary. In each region, the Regional Administrator and one support person remains on duty to provide essential management and direction to activities that protect, preserve, and manage government property and assets and to support customer agencies engaged in exempt and excepted activities.
 - b. Office of Civil Rights (AK). The Associate Administrator and one support employee are the excepted employees for this office.

- c. Office of the Chief Financial Officer (B). The Chief Financial Officer, Director of Budget, Director of Financial Policy and Operations, and two budget analysts are excepted employees. Other excepted employees are as follows:
- (1) In the Office of Financial Policy and Operations (BC), up to 120 employees in the Financial and Payroll Services Division are excepted and remain on duty for the following activities: pay and process invoices, perform payroll and financial services, and provide financial management services for internal and external customers performing exempted or excepted activities.
 - (2) In the Office of PBS Financial Services (BP), 23 employees are excepted and remain on duty to provide financial services in support of excepted activities within PBS.
 - (3) In the Office of FAS Financial Services (BF), 28 employees are excepted and remain on duty to provide financial services in support of FAS exempt or excepted activities.
- d. Office of the Chief People Officer (C). In Central Office, the Chief People Officer, Chief of Staff, and one assistant are excepted and remain on duty. Other excepted employees are as follows:
- (1) In the Office of Human Resources Services (CP), 16 employees are excepted and remain on duty for personnel support functions, including one employee who is designated to carry out labor relations responsibilities and 14 employees in the servicing offices, to perform personnel support functions. These numbers may be reduced as shutdown responsibilities are completed and if a determination is made that human resources services are no longer required.
 - (2) In the Office of Information Management (CI), Consolidated Processing Center employees are excepted and remain on duty to process shutdown actions. Once actions are processed, this number will be reduced to three employees to ensure personnel actions are processed.
 - (3) In the Office of Human Capital Management (CH), two Central Office employees are excepted and remain on duty to assist with policy direction, staffing and compensation programs.
 - (4) In the Office of Program Performance (CD), one Central Office employee is excepted and remains on duty to support emergency management functions.
 - (5) In the Office of Executive Resources (CX), one Central Office employee is excepted and remains on duty.
- e. Office of Mission Assurance (D). Excepted personnel are the Associate Administrator for the Office of Mission Assurance and nineteen employees in the Office of Mission Assurance. Excepted employees for this office are required to ensure that GSA maintains a constant state of readiness to perform its essential functions. In the event that a natural or man-made disaster or catastrophic emergency occurs during a lapse in appropriations, additional employees may be recalled, as necessary.

- f. Office of Small business Utilization (E). The Associate Administrator and one employee are excepted for this office for only that period required to determine that small business contracting procedures under lapse are functioning adequately and that prompt payment act compliance continues. This office will continue to administer the Small Business Administration (SBA)/GSA Memorandum of Understanding (MOU) for direct contracting authority for 8(a) contracts that may increase when regular procurement processes are suspended. This office will continue to advise, consult and trouble-shoot with small businesses and GSA personnel regarding contract continuity.
- g. Board of Contract Appeals (G). Initially, excepted personnel are the Chairman, Vice Chairman, and the Board's Clerk. If the funding lapse continues beyond a nominal period, additional judges and support employees may be recalled by the Chairman as necessary.
- h. Office of the Chief Information Officer (I). Excepted personnel are the Chief Information Officer (I), the Deputy Chief Information Officer (ID), Director, Office of Enterprise Infrastructure (IO), also serving as Acting Director, Financial Management and Human Resource IT Services (IB), Chief Information Security Officer (IS), Director, Acquisition IT Services (IQ), Director, Public Building IT Services (IP) and one support employee.

Also excepted are 85 employees designated by the Chief Information Officer are excepted to continue the operation and protection of the enterprise information technology infrastructure, ensure systems security and maintain server and network support, including the Regional IT infrastructure.

Along with the Acting Director, Financial Management and Human Resources IT Services (IB), a minimum number of excepted Financial and HR IT Services employees will be needed to maintain the financial and payroll systems and infrastructure to support excepted functions, including financial system hosting and server service contracts, legacy NEAR financial system operations, Pegasys financial system operations and functions as well as payroll systems operations.

In addition to the Director for Acquisition IT Services (IQ), a minimum number of excepted Acquisition IT Services employees are needed to maintain the systems and infrastructure necessary to support excepted Federal Acquisition Service (FAS) functions and GSA-wide infrastructure operations support.

Excepted Public Buildings IT Services personnel in addition to the Director (IP) will include a few senior staff personnel who will coordinate the required Public Buildings Services (PBS) system activities to meet mission essential PBS business.

All GSA IT excepted personnel will be engaged in activities that directly or indirectly provide for the protection of life and/or property or take actions necessary to shut down non-critical systems or operations. These individuals will report for duty throughout the lapse period.

- i. Office of Inspector General (J). Excepted personnel are the Inspector General, Deputy Inspector General, and any other personnel designated by the Inspector

General or the Deputy Inspector General that maybe needed to conduct essential activities to protect life and/or property, including pursuing or directly supporting law enforcement and criminal investigations or other legal proceedings that cannot be deferred. Specific details, including the number of excepted employees, are maintained in the Office of Inspector General's shutdown plan.

- j. Office of General Counsel (L). Excepted personnel are the General Counsel, the Deputy General Counsel, up to three Associate General Counsels, and up to four additional employees. In each regional division, one attorney is excepted, as well as one support employee in those regions. Employees of the Office of General Counsel are excepted in order to protect the government's interests in contracts and litigation to which the government is a party to eliminate or minimize the government's financial or other liability. The Office of General Counsel provides legal advice to services and staff offices on processing and responding to cases and terminating or suspending contracts under annual appropriations; assists in employee relations and discontinuance of services to customer agencies; and continues supporting functions under revolving or other funds not affected by the lapse.
- k. Office of Government-wide Policy (M). Excepted personnel are the Associate Administrator, the Chief Acquisition Officer, and one support employee. Other excepted employees are as follows:
 - (1) In the Office of Travel, Transportation and Asset Management, the Deputy Associate Administrator and one additional employee are excepted for the purpose of carrying out government-wide policy and travel related issues necessary to enable employees government-wide to perform excepted activities.
 - (2) In the Office of Information, Identity, and Access, the Deputy Associate Administrator and two additional employees are excepted to support contracting activities of excepted and exempted activities, government-wide.
 - (3) In the Office of Acquisition Policy, the Senior Procurement Executive, the Director of Government-wide Acquisition Policy and one support employee are excepted to provide acquisition support, including compliance, ethics, and integrity in contracting in order to protect the government's interests in excepted contracting activities during the lapse of appropriations.
- l. Public Buildings Service (P). The Federal Buildings Fund depends on enactment of new obligational (spending) authority in annual appropriations acts, and is affected by a lapse in funding authority in a similar manner as annually appropriated accounts. However, to the extent PBS is conducting operations that are (1) necessary for the protection, maintenance and preservation of government property as set forth in paragraph 4., or (2) are funded through payments obtained for services, space, or other facilities furnished on a reimbursable basis to Federal customer agencies unaffected by the lapse in appropriations, or (3) certain PBS programs or deposits to the Fund that by statute are not dependent upon annual appropriations acts for spending authority, the number of employees to be retained is based on the amount and availability of revenue generated from such operations. Management will continually assess other agency operations during the lapse and

will adjust support levels as determined by the customer base.

(1) In Central Office, the Commissioner, Deputy Commissioner, and the Assistant Commissioner for Facilities Management and Services will remain on duty and are excepted. In addition, there are three identified positions within Central Office that are excepted: one energy contracting officer and two contracting officers. Also excepted are the minimum personnel needed to support life safety and/or property protection activities, including related contracting and communications, should circumstances warrant any beyond those listed.

(2) In each Region, the Regional Commissioner, Public Buildings Service, remains on duty and is excepted, with one support person each, and with the minimum staff necessary to support life safety and property protection functions, including related contracting and communications systems activities. In total, the Regions will have 525 employees who will remain on duty and are excepted, with the ability to pull in additional excepted personnel should circumstances warrant any beyond those listed. These employees represent:

- (a) The minimum personnel necessary to ensure life safety and/or property protection as well as that minimum Business Performance level needed to support excepted Federal personnel, or Federal activities not affected by the lapse, housed in GSA-controlled facilities. This includes maintaining power supplies and communications systems, and otherwise supporting continued operations of non-Federal activities housed in GSA-controlled space, unless otherwise directed. Also excepted are the minimum number of administrative employees necessary to support these excepted business performance activities.
- (b) A minimum number of employees remain on duty to support essential lease administration activities in leased facilities currently housing excepted Federal personnel, or Federal activities not subject to the lapse. Also excepted are personnel necessary to support minimum activity required to acquire space to house excepted Federal personnel, if waiting to acquire space until the lease is resolved would significantly compromise the safety of human life and/or the protection of property. A minimum level of administrative personnel are excepted to support these activities.
- (c) The minimum number of personnel is excepted and remain on duty to protect the Government's interests in the continued performance of design and construction contracts funded from prior-year resources and performed by private contractors, and to avoid unacceptable costs which would result from termination of those contracts. A minimum level of personnel is excepted to support these activities.
- (d) PBS personnel performing activities funded through valid reimbursable work authorizations (RWAs) are excepted and remain on duty at the minimum level needed to meet customer requirements, provided that the requesting agencies certify in writing continued fund availability.
- (e) PBS personnel performing activities funded through statutory authority not

dependent upon enactment of an annual appropriations act appropriating funds from the FBF (*for example*, energy management programs funded under 40 U.S.C. 592(d)(4), recycling related programs under 40 U.S.C. 592(e); support of the Cooperative Use out-lease function funded by revenues under 40 U.S.C. 581(h)(3); and historic preservation activities that are funded pursuant to 16 U.S.C. 470h-3) must consult with the Office of the Chief Financial Officer (B) and the Office of the General Counsel (L) to determine if their positions can be funded as an overhead expense payable from the program revenues or must be considered a GSA direct salary expense for which the lapse of appropriations applies.

- m. Federal Acquisition Service (Q). The Acquisition Services Fund (ASF) is not immediately affected by a lapse in appropriations. Employees are retained to provide support necessary to enable government agencies to perform excepted activities during a lapse of appropriations. Because the Acquisition Service Fund is an exempted funding source, employees will remain on duty until cash balances fall below eight percent of total annual sales. At this point, staffing will *be* reduced by 20 percent for every \$100 million reduction in cash balances, until FAS reaches the minimum level required to support critical operations. Critical operations include support to customers not affected by the funding lapse, functions related to national security matters (such as national security and emergency management functions under ESF-2 and 7), customer funded work in process, and high priority and emergency support. Management will continually assess other agency operations during the lapse and will adjust support levels as determined by the customer base. Additional employees may be recalled as needed and if supported *by* the cash balance of the ASF.

(1) Transportation Audit activities are exempt.

(2) Utilization and donation activities that are appropriated (direct) retain 13 property disposal specialists (utilization) to support emergency requirements from excess and surplus inventories. Property sales, funded by ASF, will retain property disposal specialists (marketing) to support customer inquiries and completion of previously scheduled sales.

(3) In Central Office, all integrator offices will be subject to a phased shutdown as determined necessary based on management's continuing assessment of funding levels as the lapse continues. The following employees are excepted:

(a) The Commissioner and one support employee are excepted.

(b) The Assistant Commissioner for Acquisition Management is excepted, along with the minimum number of employees needed to support excepted functions in the portfolios.

(c) The Assistant Commissioner for Customer Accounts and Research or designee is excepted to provide communications to excepted customers.

(d) The Assistant Commissioner for the Integrated Award Environment or designee is excepted along with minimum number of employees

to support the government-wide systems work of the Integrated Award Environment and Common Acquisition Platform.

- (e) The Associate Commissioner for Innovation Strategy or designee is excepted along with minimum number of employees needed to support excepted functions support of excepted or exempted activities for external customers.

(4) The Assistant Commissioners for Integrated Technology Services, General Supplies and Services, Assisted Acquisition Services, and Travel, Motor Vehicle and Card Services remain on duty, along with the minimum number of personnel needed to support the excepted operations identified above.

- (a) Network services provided on the FTS2001 / Networx contracts must continue under a lapse, but with staffing levels reduced to a minimum level.
- (b) Additional personnel will be notified to report for duty in the event of declared disasters and national security emergencies. Telecommunications services provided in support of the Federal Emergency Management Agency (FEMA) and the National Communication System will continue at the levels necessary.

(5) In each region, the Regional Commissioner, Federal Acquisition Service, and one support person each are excepted and remain on duty to coordinate regional efforts. The minimum number of personnel needed to support the excepted operations and the customers identified above also remain on duty. In those regions where nationally reporting employees are physically located (e.g., distribution centers, supply acquisition centers, etc.), the Regional Commissioner will coordinate with the appropriate Assistant Commissioner in Central Office in identifying excepted employees.

- n. Office of Congressional and Intergovernmental Affairs (S). The Associate Administrator is excepted and remains on duty to monitor progress of appropriations enactment and to provide support to the Congress as required.
- o. Office of Citizen Services and Innovative Technologies (X). Excepted personnel are the Associate Administrator, two employees to support the National Contact Center, and two employees to support USA.gov. Additional employees may be recalled as necessary.
- p. Office of Communications and Marketing (Z). The Associate Administrator and one employee are the excepted personnel for this office.
- q. Office of Administrative Services (H). The Chief Administrative Services Officer is excepted and remains on duty to provide support to the Administrator and other components of the agency in order to assist in an orderly shutdown of operations and to provide support to excepted activities that will continue to operate in the agency. In addition six employees are also excepted and remain on duty to provide support for nationwide functions of the office.
- r. Presidential Transition: GSA is required to support the incoming and outgoing President and Vice President due to a change of Administration. If a lapse in appropriations occurs in an election year, the following employees will remain on duty and are excepted:

- (1) A senior career executive and two support staff to oversee the program in support of the transition.
- (2) Incoming Transition Support Team — the team leader and up to 40 staff members to ensure that the full suite of services are provided to the President-Elect and Vice-President Elect, and to meet requirements for the Transition Directory and Appointee Orientation, as designated by the senior career executive.
- (3) Inaugural Support Team — the team leader and up to 13 staff members to carry out various activities in support of the Presidential Inaugural Committee (PIC), the Armed Forces Inaugural Committee (AFIC), and other Federal agencies during a Presidential Inauguration, as designated by the senior career executive.
- (4) Outgoing Transition Support Team — the team leader and up to 12 staff members to ensure that the full suite of services is provided to the outgoing President and Vice-President, as designated by the senior career executive.
- (5) Internal Transition Support Team — the team leader and up to 2 support staff to ensure that GSA has appropriate procedures, policies and other materials in place to ensure a smooth transition of GSA's internal leadership, as designated by the senior career executive.